

TENNESSEE REGULATORY AUTHORITY

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Lynn Greer, Chairman
Sara Kyle, Director
Melvin Malone, Director



460 James Robertson Parkway
Nashville, Tennessee 37243-0505

January 28, 1997

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Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street N. W., Room 222
Washington, D. C. 20554

RE: In the Matter of- Access Charge Reform

CC Docket No. 96-262

Price Cap Performance Review
For Local Exchange Carriers

CC Docket No. 94-1-1

Transport Rate Structure And Pricing CC Docket No. 91-213

Usage Of The Public Switched
Network By Information Service
And Internet Access Providers

CC Docket No. 96-263

Dear Mr. Caton:

Enclosed are the original and fifteen copies of the Tennessee Regulatory Authority Staff initial comments in the above styled dockets. Please date stamp one copy and return it in the enclosed self-addressed envelop. We are also submitting two additional copies to the Common Carrier Bureau.

Sincerely,

Christopher Klein, Chief
Utility Rate Division

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BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)

Access Charge Reform)

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INITIAL COMMENTS OF THE
TENNESSEE REGULATORY AUTHORITY STAFF

The Tennessee Regulatory Authority Staff respectfully submits the following comments in response to the Federal Communications Commission's (FCC) NOTICE OF PROPOSED RULEMAKING ("NPRM") adopted December 23, 1996 and released December 24, 1996 in the above captioned proceeding.

The Tennessee Regulatory Authority is the agency created by the Tennessee General Assembly to regulate the rates and services of telecommunications services providers in the State of Tennessee. Due to the large scope of the above referenced dockets, the intricate and complex matters upon which comment is sought, and the brief time given to comment, our comments will, of necessity, be brief and cover limited subjects.

DISCUSSION

I. SEPARATIONS REVIEW NEEDED

Throughout numerous paragraphs of the NPRM the FCC seeks comments on many questions and assumptions that relate to separations and cost allocations. At paragraph 116 when discussing the Transportation Interconnection Charge (TIC), the FCC states that:

Alternatively, we could revise the TIC by quantifying and correcting all identifiable cost miscalculations and other practices that cause costs to be included in the TIC. This approach would require difficult, detailed analysis of individual LEC cost data and probably would not provide an explanation for all of the costs in the TIC. Furthermore, it would undoubtedly identify cost allocation problems that we could not remedy in this proceeding because of the need to refer jurisdictional costs allocation issues to a Federal-State Joint Board.....

The Staff is concerned that while the FCC acknowledges the detailed work that needs to be done to solve alleged problems and that certain matters need to be referred to a Joint Board, it is our understanding that the Chairman has expressed a desire for a final order in April. As reply comments are due on February 14, 1997, and the Joint Board has not acted on all these matters that will require its attention, we question the need for a rush to judgment.

We believe that considerably more than ninety or so days from notice to new rules should be allocated for such a massive undertaking. Congress has mandated the handling of certain matters through a Joint Board process so that state regulators and federal regulators can apply their knowledge and expertise in reaching judicious decisions. It appears more pragmatic to reset the inter-state revenue requirement after a thorough separations review before attempting to reset access charges.

Another concern of the Staff is how price regulated local exchange carriers (LECs) would recover any significant cost shifts from the inter-state to the intra-state jurisdiction. Tennessee's price regulation statute does not provide for rate changes due to exogenous changes in costs. If the FCC must rush to correct alleged problems in the current systems, we caution against any increases of costs allocated to the intra-state jurisdictions. If, with approval of the Joint Board, significant cost shifts are necessary to the intra-state jurisdictions, then appropriate phase-in periods should be allowed. Tennessee's price regulation statute does allow annual increases in non-basic rates limited to approximately

one half the rate of inflation, but no increase in basic rates is permitted for four years. A phase-in period would allow for a smoother transition and less rate shock.

II. RECOVERY OF NON-TRAFFIC SENSITIVE COSTS

Current FCC rules allow recovery of a substantial part of non-traffic sensitive (NTS) subscriber loop costs through the subscriber line charge (SLC), which is capped at \$3.50 per month for residential and single line business users and \$6.00 per month for multi-line business users. The FCC asks whether the current method of recovering the remaining subscriber loop costs through the per minute carrier common line charge should be changed to (1) a flat rate charge assessed against the customer's presubscribed inter-exchange carrier (IXC), (2) bulk-billing carriers based on their share of inter-state minutes of use or revenues, (3) a capacity charge based upon the number and type of trunks, or (4) a trunk port and line port charge.

The Staff expresses no particular preference for allocation of the costs to inter-exchange carriers, but suggests that the FCC consider allocating all of the inter-state subscriber loop costs to the inter-exchange carriers and allowing the IXCs to recover the costs from its customers as the market would allow. However, we recommend that the maximum rates of \$3.50 and \$6.00 be imposed on the flat rate charges that IXCs could collect from end users as a subscriber line charge. IXCs could offer various packages of rates as they currently do to customers to recover the costs, or tapered rates, etc. This allows the SLC to be associated with the cost of providing inter-state communications services. In Tennessee, even though the SLC charge is separately identified on the LEC bills, most subscribers do not associate it with inter-state service. Placing a SLC charge under the inter-state portion of a customer's bill may reduce confusion.

In paragraph 63 the FCC sought comment on Section 254(g) of the Telecommunications Act of 1996 which requires IXCs to charge the same inter-exchange rates to subscribers in urban and rural areas and charges for services in each state at rates no higher than the rates charged to subscribers in any other state. The FCC asked if this requirement prevents IXCs from charging customers the flat monthly rate assessed for that line if the amount of that charge varied among states, or between urban and rural areas within a state. Utility industry costs vary from area to area, state to state, and are both fixed and variable. Utilities have become experts at averaging such costs and we see no reason why flat rated charges for subscriber loop costs could not be charged to IXCs, which they could then average into their rate structures. If an IXC charges ten cents or fifteen cents per minute for calls, it has averaged the property taxes and depreciation generally tied to fixed investment with access charges, electricity costs, and labor generally tied to usage or hours worked, to derive rates that are sufficient to cover these costs and provide a profit.

It is the Staff's opinion that it was the intent of Congress to protect customers located in certain states or sections of the nation from being economically disadvantaged by IXC rates. We do not see a conflict with fixed cost access charges to IXCs and the

ultimate rates charged to customers by the IXC's. Establishing a maximum rate that IXC's could charge customers for the SLC at the current level should provide some rate stability while not preventing IXC's from charging a lesser rate if costs are lower, or for competitive advantage.

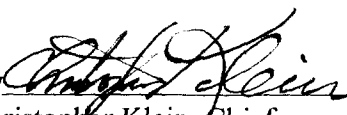
III. MARKET VS. PRESCRIPTIVE RATES

While generally the market is regarded as the best regulator of price levels, the Staff believes that prescriptive rates might be appropriate until an area is deemed competitive. If market based competition causes an incumbent local exchange carrier (ILEC) to lose IXC business in a given area, it may be appropriate to allow the ILEC to match those rates and to make them available to similarly situated IXC's. The risk of purely market based rates in an area that is experiencing emerging competition, would be the ability of the ILEC to reduce rates below the competitor and drive them out of the area, while covering the lost revenue with revenues from areas that are experiencing no competition. Increases in access charges in less competitive areas could stifle inter-lata competition and add pressure for deaveraging of rates to those areas.

IV. CONCLUSION

The Staff respectfully requests that the FCC carefully consider the positions set forth above, refer all appropriate separations and universal service matters to the appropriate Joint Boards, and increase the resources to those boards as necessary to speed resolutions of these matters.

Respectfully submitted,
Tennessee Regulatory Authority Staff

By 
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January 28, 1997